

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

JAMAL DONTAE BURNELL, #91340-083,

Petitioner,

v.

ACTION NO. 2:21cv391

R. WILSON, *Acting Warden*,

Respondent.

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Jamal Dontae Burnell (“Burnell”), a federal prisoner convicted and sentenced in the Eastern District of Virginia and housed in the Federal Correctional Center in Petersburg, Virginia, alleges he was denied due process with respect to a disciplinary hearing held at FCI Petersburg on July 30, 2020. *Id.* Specifically, he alleges he did not receive a copy of the disciplinary hearing officer (“DHO”) report within 15 days of the hearing, and that he is actually innocent of the charges. *Id.* at 6–7.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B). ECF No. 3. The Magistrate Judge’s report and recommendation filed May 4, 2022, recommends dismissal of the petition with prejudice. ECF No. 15. On May 23, 2022, Burnell filed objections to the report and recommendation. ECF No. 16. The Court, having reviewed the record and examined Burnell’s objections to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby accept the findings and recommendations set forth

in the report and recommendation, and it is therefore **ORDERED** that respondent's motion to dismiss, ECF No. 9, which was converted into a motion for summary judgment, ECF No. 13, be **GRANTED**, and the petition, ECF No. 1, be **DENIED** and **DISMISSED** with prejudice. It is further **ORDERED** that judgment be entered in favor of respondent.

Burnell has failed to demonstrate "a substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 327, 335–36 (2003).

Burnell is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Burnell intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Burnell may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Final Order to Burnell and counsel of record for respondent.

/s/

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Robert G. Doumar  
Senior United States District Judge

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Robert G. Doumar  
United States District Judge

Norfolk, Virginia  
June 15, 2022